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C O N F I D E N T I A L SECTION 01 OF 02 BAGHDAD 003424

SIPDIS

E.O. 12958: DECL: 08/18/2025

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SUBJECT: CONSTITUTION UPDATE, AUGUST 19 -- MORE PROGRESS

Classified By: DCM DAVID SATTERFIELD, REASON 1.5 (B) AND (D).

1. (C) Leaders of the top Iraqi political factions, including representatives of the major Sunni Arab political groups, met at the Ambassador's residence on the morning of August 19. While a line-by-line review slowly progressed, a variety of side-meetings focused on critical issues produced closure on all but the question of resources. Further Shia-Kurd discussions resulted in significant movement toward agreement on this issue, key to closing on an overall constitution text.

In the August 19 morning meeting they agreed on:

-- rewriting an article in the first section on basic principles. Article 2 now reads that "the constitution will "safeguard" (instead of "respect") the Islamic identity of the majority of the Iraqi people and guarantee all the religious rights of all individuals, and the freedom of faith and religious practices.";

-- taking out references to the Shia religious authority from the text;

-- outlawing foreigners from owning real estate except in cases regulated by law;

-- stipulating that the state would guarantee freedom of express and the press "as long as these do not violate public order and decorum."

-- the principle of freedom of assembly and peaceful demonstration to be regulated by law;

-- keeping in the text article 27 of the section that gives freedom to followers of all religions or sects the freedom to (a) practice religious rituals; (b) manage religious endowments, as regulated by law and (c) provides a guarantee by the state that all places of worship will be protected.

-- keeping in the text article 28 that states that the "individual has freedom of thought, conscience and religion."

-- using language from Deputy President Ghazi al-Yawer about the state promoting the interests of tribes while "forbidding tribal customs that are incompatible with human rights." (Comment: Iraqi women objected to any state support for tribal customs that might justify actions like honor killing. The text now makes it clear the state will not support such acts. End Comment.)

2. (C) The group put aside until later many tougher issues, including Iraq's identity (there was yet again another long discussion between Kurds and Sunni Arabs on this today), on the personal status law (of great interest to those trying to preserve women's rights). The group also put aside until later consideration about whether or not to include an article confirming Iraq's permanent unity.

3. (C) The group agreed to convene again on the evening of August 19 where it will begin seeking final agreement on the structure of government. Assuming there is time left, it will then have to address the contentious issues surrounding federalism.

4. (C) In the course of the day, the Ambassador conducted side discussions with key Shi'a and Kurdish leaders in an effort to broker a compromise on the treatment of natural resources. In separate meetings, he proposed the following formulation to Jalal Talabani, Adil Abdel-Mahdi, and Masud Barzani:

Begin Text: All of the oil and gas resources of Iraq are the property of the all of the people of all of the regions and governorates of Iraq.

The development of oil and gas resources shall be to maximize the benefit for all the Iraqi people, taking into consideration market principles and encouraging investment. The federal government shall, in partnership with the governments of the regions and governorates, set forth and execute a policy for oil and gas. This shall be regulated

by law.

In the meantime, until this law is enacted, the revenues from oil and gas shall be allocated equitably by the federal government, taking into account the demographic distribution and those Iraqi regions and governorates deprived during the former epoch, in a manner that enhances balanced development. End Text.

15. (C) Thus far, Talabani has responded favorably to this text, and Mahdi, after conferring with Hakim and others, has called with one word change: "cooperation" vice "partnership". Barzani has committed to studying the language, consulting with his colleagues, and getting back to the Ambassador within the hour. If closure can be reached on the resources issue, we will have achieved Shia-Kurd agreement, the key to closure on all five critical issues, and thus on the constitution.
Khalilzad